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ABSTRACT

The Commission's study, one of a number of examinations of the Federal Government's impact of education, calls on the Carter administration and the 95th Congress to begin an era of cooperation in curtailing the enormous growth of federal regulation in higher education. The statement affirms the commitment of the member institutions to the social goals of fair and equal opportunity and treatment, to health and safety protection for their people, and to fair wage standards, but protests those regulations and directives that seem to endanger the quality of higher education. Selected quotes from respondents are included in this report on the effects of compliance. A summary of institutions reporting unfair treatment is also provided. (LBH)

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Colleges & Universities Speak Out on Cost Of Federal Compliance In Higher Education

A SPECIAL REPORT
December 1976

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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Commission on Colleges
Southern Association of Colleges and Schools

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I. BACKGROUND

In December 1975 at the 80th Annual Meeting of the Southern Association of Colleges and Schools, the Executive Council of the Commission on Colleges instructed the staff of the College Commission to conduct a study of the effects of compliance with federal legislation and regulations on the quality of education at its member institutions. To advise the staff and recommend policy, a task force of member presidents and Executive Council members was appointed in February 1976.

The staff began to design an instrument to measure cost in time and money and to identify the problems created by the entire span of federally mandated programs affecting its member institutions. The Commission was aware of a forthcoming study by the American Council on Education entitled "The Costs of Implementing Federally Mandated Social Programs at Colleges and Universities." In early March, a SACS staff member met with Ms. Sharon L. Coldren of ACE's Policy Analysis Service who was working with Dr. Carol Van Alstyne in compiling the study. Ms. Coldren was good enough to share with SACS the design of the study. During the discussion it became apparent that the costs of compiling such a comprehensive study for 711 institutions would be prohibitive. Estimates of the cost ranged from \$1,000 to \$3,000 per institution, bringing the cost to the entire membership to between one and two million dollars. Since the assumption was made (subsequently borne out by a large number of responding institutions) that many institutions would not be able to break out accurate cost - time data, the cost of such a study did not seem to be justified by the accuracy of the results.

Therefore, it was decided to send a letter (see Appendix) to all member and candidate institutions of the Commission on Colleges. The letter assumed an increasingly adverse impact upon member institutions in the compliance area as reported by a number of presidents of member institutions at seminars on accreditation conducted in the states of Alabama, Florida, Kentucky, Georgia, North Carolina, South Carolina, Mississippi, Tennessee, Texas, Louisiana, and Virginia between September 1974 and February 1976.

The letter requested information concerning, "the extent to which the Federal Government has injected itself into the operations of your institution via compliance regulations in such areas as: Title VII, Title IX, OSHA-Health and Safety, Eligibility for Federal Funding for Institutional and Study Grant Programs, Department of Labor Regulations, Internal Revenue Service Regulations, Buckley Amendment Regulations, Termination of Employment, EEOC or OCR action, and instances of cancellation of the flow of federal funding by federal agencies without notice and/or hearing.

"We would ask of you that you estimate your current annual total cost in time, money, and efforts of compliance with the above and all other Federal regulations or requirements. We want to be able to take to Congressional hearings, which we may find it necessary to attend, a documented story of the tremendous impact Federal bureaucracy is having upon education in the South. Also, if you care to do so, please describe any instances where you feel your institution has been unfairly or arbitrarily treated under any federal program or by any federal office. After we have put together such a document, we will be back in touch with you with a report on our findings and any recommendations for further action."

The resulting cost estimates which are contained in the following summary of reports from member institutions are just that-- estimates. Indeed, if the two-billion-dollar figure mentioned in a national magazine is accurate, the SACS estimates are very, very low. This report (and the much more detailed study by ACE of six institutions) may be subject to criticism on that ground. However, the merit of the ACE study and of this study is that both reach the inescapable conclusion that compliance action is having a serious and rapidly accelerating negative effect on the primary mission of institutions of higher education. Some respondents questioned whether or not we are approaching a break-even point between costs and benefits. It would be helpful if a complete cost-benefit study could be undertaken, but such a study is beyond the scope of this document. What can be stated here is that it is extremely important for executives in the federal government and members of congress to listen to the agonizing concerns of top administrators of several hundred institutions in eleven states as they describe the negative impact upon educational quality caused by expanding federal compliance rules, regulations, and procedures.

II. SUMMARY OF THE REPORTS OF MEMBER INSTITUTIONS TO THE
LETTER ON FEDERAL COMPLIANCE.

1. There is nearly complete agreement among member institutions that the growing burden of compliance is having an adverse impact upon the quality of educational programs and the amount of educational planning which institutions can devote to their own purposes.
2. The most common concerns expressed were related to Buckley regulations, VA regulations, Dept. of Labor, OCR, EEOC, HEW, discrimination actions, and affirmative action plans.
3. There were a number of concerns related to the timing of reports and the data required. These center around:
 - (a) The increasing amount and complexity of data.
 - (b) The ever-changing nature of data.
 - (c) The data which is required retroactively to justify prior decisions.
 - (d) The short time frame in which institutions are required to respond, coupled with a long delay in the production of data resulting in obsolete reports by government agencies.
 - (e) The need for coordination among agencies, i.e., many reports require the same or slightly different data in differing form.
 - (f) The reduction of the information capability of the institution for educational planning purposes.
4. The effort to respond to continually changing requirements and procedures in order to preserve federal dollar flow creates an inability to devote adequate time to the real objectives of the federal regulations.
5. The feeling of the majority of the institutions is that they have not been treated unfairly. However, there were a number of important exceptions which are summarized in Section IV of the report.
6. A concern was expressed with the ambiguity of guidelines, agency roles which have overlapping and competing functions, and inconsistent interpretations among or within government agencies.

7. Some institutions voiced a concern that certain regulations and agency actions seem to go beyond the intent of the laws passed by Congress.
8. Some institutions saw regulations tending to force standardization to the detriment of an important uniqueness and diversity in higher education.
9. In a variety of ways, the reports indicated that the compliance load might very well be approaching a level beyond the ability of some institutions to respond.
10. Concern was expressed over massive future capital outlays which might be involved in OSHA and the regulations making provision for handicapped students.
11. Some institutions deeply resent the fact that there is presumption of institutional guilt by federal agencies and officials.
12. Some presidents reported an escalation in compliance requirements for states, compounding the impact upon their institutions.
13. Some institutions felt that much of the problem was that the legislation or regulations imposed on institutions of higher education were drafted without adequate educational input and, therefore, were often inappropriate and did not work well.
14. Many institutions reported that the data required was not available or was too costly to gather, or that they did not have the time or resources to break out the data to give the requested cost estimate.
15. An overwhelming number of reporting institutions applauded SACS' efforts to address itself to the problems created by federal compliance requirements and to attempt to bring about some sort of relief in this area.

The entire membership of the Commission from the eleven states referred to above was contacted. Out of the 711 member and candidate institutions, 424 reported. Of these, 254 institutions reported an annual cost of \$32,976,029, and 170 reporting institutions did not give a cost estimate. Two hundred and eighty-seven institutions did not respond.

There are a number of significant one-time costs relating to affirmative action plans, litigation, or various reporting requirements and regulations. Perhaps the greatest is an estimated 50-million-dollar cost which is related by one institution to meet OSHA regulations in a 120-million-dollar hospital complex.

III. EFFECTS OF COMPLIANCE: SELECTED QUOTES FROM RESPONDENTS

1. "Category I - Federal Bureaucracy...but overlapping functions and responsibilities of federal bureaus and agencies operating within loosely-written mandates have resulted, in recent years, in mounting confusion...Because the federal agencies themselves are not likely to agree upon concepts, definitions, or procedures, 'the institution' has been relegated to the status of a marionette...."

"Category II - General Compliance - The most time-consuming aspect of recent federal encroachment is the development of compliance procedures and plans. Such endless reporting appears to be unnecessary; if each institution could receive a clearly and logically written set of guidelines, then an institution would merely have to respond negatively or positively with regard to intended compliance."

"Category III - Data Management - Each routine or program must be developed as a stand-alone operation. Definitions, procedures, etc., change each year. What is accepted today may not be accepted next year. The computerized record keeping and administrative operation of the data management system has grown to a point that sound educational decisions may not be made prior to providing an array of time consuming, costly activities directed to the federal bureaucracy."

2. "I don't think anyone would question the VA's efforts to try to improve their system; however, the responsibility has been shifted to the colleges. I don't think this is a good idea. The VA, as noted, is also forcing policies on the colleges. In addition this shifts the responsibility from the student or veteran to the college."
3. "...this amendment [Buckley] continues to leave us very vulnerable in accepting transfer students from other institutions because of the reluctance of some administrators to communicate with us or get involved for fear of a lawsuit."
4. "Non-compliance or violation of federal regulations in these areas [affirmative action and equal rights] carry the threat of withholding contract funds and even revenue sharing funds from the agency found to be in violation. Non-compliance by one community college could affect federal funds to the entire system."

"The effect of federal government regulations and controls on 'the institution' are more subtle. The latest developments appear to be a tendency to enforce federal regulations through state coordinating councils or agencies...as a result, compliance requirements that appear to be state directed are in fact legislated by federal law."

5. "...some of the reports appear to be in direct conflict with each other."

"Diversity has been characteristic of higher education in the United States. Recent legislation and regulations have a tendency toward homogenization, forcing institutions into a common mold. This not only is destructive to institutional freedom, but it destroys the student's right of choice."

"Legislation and regulations have proliferated so rapidly that institutional personnel can no longer keep up with all of them."

"Many regulations are open-ended and ambiguous...the bureaucrats themselves are often in disagreement on how regulations should be interpreted."

6. "You have pinpointed what is, in my opinion, the number one problem facing educational institutions founded on the philosophy of local autonomy and the service to a local community."

"We have made actual comparisons in the report requirements imposed at the Federal level over the past five years and find that in our instance the volume of material has grown 1620%."

"We have had one major 'bad' experience...with the Special Services Program under Title III... At that point, we were charged with racial discrimination which was later investigated. Before it was investigated, our funds were refused for the following year in spite of the fact that the new director had reorganized the program and it was functioning appropriately. The investigation into the complaint consisted of a week-long series of interviews, etc., on our campus by two staff people from the Office of Civil Rights in Atlanta. We were given two weeks notice to prepare for this hearing and, incidentally, were never notified of the charge until we received the telephone call setting up the investigation dates...we were promised a report in forty to sixty days after the investigation and as of this date, seven and one-half months later, and in spite of numerous requests on our part, we have still not received a report of their findings."

7. "These V. A. requirements are and have been causing us considerable agony. They in essence destroy our Developmental Studies Program which we have been building and developing for the past ten years. Just when we have an approach to remedial education which we feel to be solid, sound, and much better than anything we have used in the past, V.A. regulations demand that we revert to what we were doing five years ago or deny our students their V.A. benefits."

8. "We are laboring under a fantastically mounting mass of required paperwork each year, due primarily to the constant flood of new laws, regulations, and guidelines."

"E.E.O.C. - Title VII, Executive Order 11246, Title IX - Action here has been continuing since August, 1972. To date, University has submitted three different Affirmative Action plans for approval by E.E.O.C. To date, no approval has been received despite the passage of nearly one year since the last plan was forwarded to the Department of H.E.W."

"Title IX - It has had a minimal change effect on personnel procedures (due to its duplication in many areas with Title VII, Executive Order 11246, etc.), but it has been a disruptive force requiring additional expense of both time and money."

"E.E.O.C. - O.C.R. Action - In this area the problem has been the justification, furnishing of records, required documentation, etc., to defend action taken at earlier dates...One of the biggest problems with Federal intrusion has been the need to document and retain data and records justifying personnel actions taken. This documentation and retention problem is compounded by the question and decision of what is going to be required at a later date to prove or justify a decision."

"All of the above activities are supported by state-appropriated funds. Had these compliance activities not been required, or had they been funded by Federal monies, at least twenty-five additional faculty positions would have been available for our institution...."

"While the expenditures of time, money, and effort are frustrating and distressing, it is my feeling that the most insidious element of the problem is the creeping and subtle control that is being exercised by Federal agencies. No longer is an institution able to 'call its own shots'. Many times, it is necessary to forsake 'quality' in order to comply with Federal guidelines."

"We recognize the concerns for equality of opportunity and treatment that produced these pieces of legislation and we are not unsympathetic to such concerns. On the other hand, the controls, the expenditure of funds and related time allocations -- all make it much more difficult for an institution to provide the environment in which equal opportunity and treatment can take place, since huge sums of money are being syphoned off into administrative duties and paper work."

9. "Perhaps the most frustrating aspect of all this is the fact that much of the information being requested by different Federal agencies is essentially the same, with minor differences in definition or format which, in effect, necessitates the preparation of a duplicate report almost from scratch."
10. "There are many Federally sponsored programs which benefit the University and our students, which require that certain conditions be met, particularly with regard to fiscal responsibility, and the University expects to spend time and money to satisfy these conditions."

"At the same time, we feel the same frustration and aggravation that many of our colleagues feel when we are confronted with regulations and compliance requirements which seem to us to serve no practical purpose, are unrealistic or prohibitively expensive, go beyond the intended scope of legislation, or are imposed without regard to the distinctiveness of the institution."

"Our concern, like yours, is that the Federal bureaucracy begin to limit itself to useful projects which are clearly within the intent of the Law, and with which we can reasonably expect to comply."

11. "For example, for some time we have been expected to be in compliance with the Buckley Amendment, yet for some eighteen months we have been awaiting final regulations and still do not have them."

"I do have one area of great concern in that I feel institutions are denied due process by the Department of Health, Education, and Welfare, Higher Education Branch of the Office of Civil Rights. When a person files a complaint against an institution, it often receives a letter stating a charge has been filed, yet the nature of the charge is not stated nor is the name of the person filing the charge mentioned."

12. "We do not dispute the government's right to know nor the necessity to check in areas affecting the national social conscience, but we are disturbed by the cumbersome procedures and the lack of support for the administrative costs. In a very small institution, under the fear of penalty or the loss of Federal funds, we must further short-change the educational programs in order to handle the administrative burden."
13. "The only requirements imposed on us as an institution are requirements designed to safeguard the taxpayers' money and to prevent careless or dishonest administration at the institutional level."

"We are dealing, are we not, with individual liberty?"

14. "EEOC and OCR Relationships - Two and one-half years of work... were required to develop the University's Affirmative Action Plan... Numerous negotiations with the Regional Civil Rights

Office, time-consuming preparations for site visits, revisions of earlier Plans based on new interpretations of guidelines by OCR, and still no response of Plan approval since submission two years ago...."

"Institutional and Student Grant Programs - ...laws concerning guaranteed student loan programs have placed educational institutions in the position of being liable on defaulted loans, although the institution has no authority in granting such federal loans The institution has no control over the decision made by the lender and must accept the money for the student and thereby assume liability."

"...each time we seem to have the data systems capable of routinely responding with the information needed...there is a change either in forms utilized or information needed... Parenthetically, it should be pointed out that while the agencies insist upon a prompt reply from the institution, publication of data resultant from the surveys is often several years later; thus, comparative information is obsolete when it becomes available A second problem relates to ever changing sets of definitions for data elements...As an example, we might cite the changes in the definition of ethnic groups. Data on student enrollment and graduation are provided by ethnic group categories. Again this year new definitions are provided. At student ethnic data are acquired and placed in the computer-based student information file at entry point -- when the student is admitted. With an enrollment of more than 17,000 students, to update any single piece of demographic data at one time is a major undertaking."

"...there is the subtle but significant influence exerted by federal agencies in shaping or determining the nature of the institution's management information capability by the kinds of requests which are made of the institution."

15. "It is difficult to deny the basic need for programs such as Title VII, Title IX, etc., ...A vital question that must be asked, however, is whether or not they can in all cases be given top priority in this decade of economic pressures."

"Planning and establishing reasonable priorities becomes progressively more imperative to the success, and in some cases survival, of an institution, and this task becomes progressively more difficult when so many costly priorities are demanded by federal regulations."

"Perhaps the most costly and time consuming activity is dealing with EEOC. Guidelines under this agency...often require submission of massive amounts of employment data, staff time, and the absorption of legal costs in cases that were not properly evaluated and handled by what is apparently an inadequately staffed agency."

16. "Federal officials are determining educational policy at this institution. First, we realize as we submit proposals that certain 'types' of proposals are apt to be more successful. Second, after a proposal has been funded, we are likely to have telephone interviews about budgets, etc. which, in essence, will alter what this institution set out to do."

"Another area where there has arisen sharp conflict...the VA has every right to interpret its regulations and to fund or not fund a Veterans program. We, on the other hand, do not feel that the VA has any right to determine academic programs at institutions."

17. "It is our estimate that the current annual cost...resulting from The Federal Government regulatory impact upon the operations of _____ University is approx. 8.41 F.T.E. positions at an expense of about \$126,745.00. You may be interested to know that we estimate that we expended the equivalent of about \$400 salary dollars in the development of this report."
18. "It seems to me that the costs to this college lie in needed work postponed, or inadequately done, or not done at all. The administrative staff has been so overwhelmed with both Federal and State processes and paper work, that planning and supervision of the educational program has not received the added attention that it deserves at this stage in the life of the institution."
19. "When we were visited by an auditor from the Dept. of Labor to review our EEO situation, that auditor was not interested in the data and reports already accumulated. He did his own study and did not send us a copy of his report. Later, we read in the newspaper that we were being sued by the Dept. of Labor for sex discrimination."
20. "Another report that has increased our work load is the biennial survey of enrollment by racial/ethnic background for the Office of Civil Rights. Previously, this report required one page to provide the information requested. At the present time, the report has been expanded to twenty-six pages."
21. "Inasmuch as we try to run with a very thin layer of overhead, it has meant that in fact we simply do not do a number of the things we ought to do in order to improve our own operational procedures."
22. "Our problems are modest compared to those of many other institutions, but the overhead cost which the government is loading on to our institutions today is producing a tragic diminution of effectiveness of allocation of our resources to the most effective ends in education."
23. "In a day when the smaller independent college is literally fighting for survival, the financial commitments needed to implement some federal programs, indeed, complicate the survival process."

24. "None of the costs identified above include the substantial dilution of time and effort on the part of the faculty and the administration in dealing with federal programs and their implementing guidelines and interpretations, or for addressing the continuing flow of proposed regulations that issue forth from Washington. For example, the section of the draft regulations for implementation of Title IX of the 1972 amendments to the Higher Education Act would have required, had they been approved, that universities 'establish and use internal procedures for reviewing curricula, designed both to ensure that they do not reflect discrimination on the basis of sex and to resolve complaints concerning allegations of such discrimination, pursuant to procedural standards to be prescribed by the Director of the Office of Civil Rights'. President Richard Lyman of Stanford, writing to Caspar Weinberger in protest said, 'In all my experience as a university professor and administrator I have never seen a proposal seriously made by a Federal agency that would intrude so directly into the substance of education, into what students read and what professors say.'"

"Admittedly, finding an equitable basis for proration of library expenses to government contracts has proved difficult. [The HEW] solution was to propose that no portion of library expense be allowable in the recovery of indirect costs. In other words they attempted to deny the applicability of a library for research purposes altogether."

"The point of all this is not to deny the need for social action, the propriety of equal opportunity and fair wage standards, the requirement for safe equipment and work practices. It is to bring to your attention that, in the pursuit of worthy objectives we are creating a paper-work nightmare. We are adding unnecessary and unproductive administrative costs. And, as Secretary Mathews has said, we are losing autonomy and our responsibility. Government agencies and bureaucratic personnel are looking at us as employers and federal contractors without regard to the manifest differences between an institution of higher education and a profit making, tax paying corporation. It is being done at the cost of distraction for our faculty and financial penalty to our students. And it is profoundly changing the climate of the college campus."

25. "We do have federally funded programs that are beneficial to the college, and do not require unreasonable amounts of time for reporting. This, I feel should be pointed out in your report. Except for the excessive reporting requirements, we have not been treated unfairly."
26. "Needless to say, the expense is enormous and the time and effort which our small staff must spend on these matters is entirely out of proportion to what I consider the relative importance of the functions of an educational institution."

27. "We have your letter of August 5, 1976 in which you asked the cost of our institution complying with federal programs. In order to answer this scientifically, we would need a federal grant to hire a team of cost accountants to tell us. But we can generalize with a reliable degree of accuracy, so that you might have some opinions for your presentation."
28. "I find the situation totally incomprehensible and intolerable concerning the pressures and threats that can be and are made through the federal regulatory agencies towards colleges who do not abide precisely by their edicts concerning the total monies received through any federal sources. What I am saying is simply that if you are in violation in a minor way in one area, even if that area is not very significant, your total programs are in jeopardy and HEW makes no bones about their willingness to put you out of business unless you comply. Many times the regulations and interpretations as rendered by HEW are in total opposition to what the...congressional document intended. I have spent hours talking with our senators and representatives who in many instances have voted for certain basic laws, only to have HEW interpret them in such a manner that it would be totally opposite to their real intent. In actuality it simply means that HEW is the maker of the laws, and not the administering force behind the laws, and this is playing havoc with all of our institutions, public and private, throughout the country."
29. "All of us agree that for the most part the ideas behind the regulations are good and worthy; the difficulty is that when bureaucrats begin to write regulations, they become extremely complicated and, in many instances, difficult to administer as well as expensive in time and effort. They are becoming so numerous that they involve a genuine encroachment on the freedom of action of the private colleges."
30. "This represents 2% of our budget and exceeds direct expenditures in each of the following instructional departments for 1975-76: Dental Hygiene; Medical Technology; Mental Health; Physical Education; Art; Drama; Chemistry; Physics; Criminal Justice; Computer Center; and Special Studies."
31. "One of the basic problems--which has been pointed out nationally--is the fact that Executive Order 11246 was written for industry and imposed without any basic changes on educational institutions, which have vastly different structures."

"Second, Federal regulations require each educational institution covered, however small, to develop nationwide statistics on availability of minority and female faculty. The U.S. Office of Education will begin in the fall of 1976--twelve years after the passage of the Civil Rights Act of 1964--to collect statistics on degrees awarded on the basis of race and sex."

32. "It is evident from the study that we spend better than thirteen percent of the total effort output of the college campus in involvement in federal reporting."
33. "In determining student financial assistance, need calculating has been taken away from the college through the B.E.O.G. program. Participation in the B.E.C.G. may soon be restricted to those institutions having a small percentage of developmental students. This violates a basic [tenet] of the community college."
34. "The list of problems such as these is almost endless. I would point out that while the regulations are quite detailed and specific regarding what must be done to effect compliance, they are vague and conflicting with respect to how compliance can be achieved."
35. "On December 8, 1975, Rev. Proc. 72-54 was superceded and the new procedure explicitly applies only to private institutions. It was designed to preclude racially discriminatory policies. Section 3.02 of the new Procedure provides:

'A policy of a school that favors racial minority groups with respect to admissions, facilities and programs, and financial assistance will not constitute discrimination on the basis of race when the purpose and effect is to promote the establishment and maintenance of that school's racially nondiscriminatory policy as to students.'

"While the above does not require a policy of inverse discrimination, it appears to encourage such a policy at a time when there is confusion in the state and federal court decisions, and a lack of guidance from the U.S. Supreme Court. In *De Funis v. Odegaard*, 94 S. Ct. 1704 (1974), only Justice Douglas wrote an opinion on the merits. He rejected the policy of selecting minority applicants to achieve a racial balance in an entering class."

36. "As you can see we are using the equivalent of approximately 13 full-time staff members to handle all of the paper work, reporting etc. required by the federal government. Placed in different terms, you could say that about \$2 million of our endowment is necessary to produce the funds required to meet all of the requirements of the federal government in one way or another."
37. "We recognize that today's pressures are different from those of earlier periods and demand more of us in terms of reports, evidence of compliance to federal regulations, etc. What we do object to are those instances in which federal rules and regulations move beyond the point of oversight and begin to dictate institutional mission, policies, and procedures. Some examples, in our opinion, of the latter, are as follows:

Federal regulations for all programs must be interpreted. All too often, the 'official' interpretations are not in agreement with each other; yet, the College is held responsible for the 'correct'

interpretation...Confusing and directly contradictory instructions have been given on several occasions. The College has been criticized for doing precisely what we were directed to do."

38. "The total cost of this activity and the attendant supplies and equipment consumed total at least \$439,000 for the fiscal year. As one of our Deans observed, 'just think what we would have if we could put this kind of money into scholarships for females and minorities.' "

"...Underlying the support of continuing Federal funding is the reservation that 'we have almost reached the saturation point in terms of guidelines, monitoring devices, procedures, reports and rules.' This conclusion reflects the high level of frustration that university administrators face in trying to reach the worthwhile goals that underlie the Federal compliance procedures. The procedures themselves drain off the time and energy necessary to achieve the goals...."

"A sense of frustration now threatens to erode any progress we have made. In addition the frustration is creating a serious estrangement between the university and the Federal government. We are frustrated by the numerous, time consuming, expensive, and incompatible reports we have to submit. We are frustrated when an anonymous, lower or middle level bureaucrat in Atlanta or Washington makes a decision that results in our having to rearrange our priorities without our having any notice or input into the decision. We are frustrated when an apparently minimally competent employee of the Federal Government substitutes his judgement for that of our senior administrative officers and concludes that we are wrong because we did not do things his way. We are frustrated by a series of Federal compliance requirements administered by different agencies with each specifying different requirements. We are frustrated because we are beginning to feel that we are spending more time complying than we do educating...."

39. "Let me cite one example--satisfying the equal employment opportunity laws. An enormous amount of resources have been used by this institution to meet the basic requirements of conducting utilization studies, determining appropriate recruitment pools, generating availability statistics, writing and rewriting an Affirmative Action Plan, establishing grievance procedures, developing institutional goals and timetables and communicating policies and procedures to concerned departments and individuals. All this effort, however, does not, cannot produce the immediate results desired by HEW and the Labor Department or solve the more basic problem of increasing the number of women and minority students in graduate degree programs and thereby add to the long-run supply of available candidates for higher education positions...."

40. "...for the last two years we have not been able to add additional personnel to our administrative and support staffs except where noted, and therefore the above has had to be absorbed into existing workloads. This has resulted in decreased efficiency in all aspects of the operation of the College, and I am concerned that it has already affected the quality of our educational process...."
41. "...If there is a single harsh criticism it is in the area that one agency seems not to be aware of or care what any other agency is doing...."
42. "In effect the government has been placed in the position of prescribing and supervising the activities of private educational institutions in such areas as athletics, placement, student financial assistance, the conduct of educational programs and activities, facilities and housing, both on and off the campus...."
- "...If something isn't done soon to throttle the speed of the federally mandated programs, the present estimated cost of \$2 billion as recently [stated] in Change magazine will double or triple within a relatively short period of time...."
43. "An HEW example: In 1974 a _____ group filed a discrimination case with HEW and EEOC, setting in motion the compilation of two large cartons of documentation, two HEW visits to our campus by a team that involved nearly a week of many people's time for each visit, and the setting up of an office on campus for use of the HEW team when they were here. During the visit the team occupied uncounted hours of student and faculty and staff time in leisurely interviews. Two years later, there has been no report from HEW. We found very little that was fruitful in this procedure."
44. "...A ridiculous example occurred recently where a poet had given some readings on our campus without pay, except that he was allowed to stay in our dorms and eat in our cafeteria while here. Because he claimed unemployment benefits after leaving, we had to pay such compensation tax retroactively together with completing a complex form to serve as an addendum to our next quarterly report to the Employment Security Commission."
- "Please understand that we know reporting is essential, as are regulations, but it does seem they have gotten out of hand. And help toward simplification and unification would be a boost to hard pressed institutions of higher education."
45. "I should like to bring to your attention a problem the State University System has recently had with a governmental agency. On July __, __, the State University System of _____ was notified ...that a major contract (\$3,500,000) was being cancelled. This contract was to have provided summer salaries for faculty and graduate students, as well as academic year support for students and technical help. This unexpected termination has seriously

affected continuity of research support and has left a large number of graduate students stranded without support. There has as yet not been a hearing on this contract, but no matter the outcome, the damage has already affected our faculty and students."

46. "Of a total annual budget of approximately six million dollars, between 14 and 20 per cent is expended for the purposes as above stated. My conclusion [about] Federal impact is simply: 'There must be a better way' or we must find one--- if we would continue to receive such beneficence and, at same time, survive."
47. "Under Title VII of the Civil Rights Act of 1964, amended by the Equal Employment Opportunity Act of 1972, we have encountered incidents where employees file a complaint of discrimination on the basis of sex or race with the appropriate federal agency and a year or eighteen months elapses before the complaint is investigated. In the meantime, we are given none of the particulars of the complaint. Hence, we are denied the opportunity to investigate for ourselves to determine if, in our opinion, a problem exists which we could correct."

"The Veterans Administration has attempted to hold us liable for their overpayment to veterans by determining this institution to be 'negligent' in reporting. We have taken the position that the Veterans Administration has a contract with an individual student. If the Veterans Administration chooses to pay before the fact, overpayment is its problem. The only way this institution will assume responsibility for negligence is in a court of law."

"The Buckley Amendment has not caused undue hardship in its enforcement, but on applications for admissions we are unable, because of federal encroachment, to ask a person's ethnic background. However HEGIS reports and other federal reports require this type of information."

48. "Our budget for 1976-77 estimates an income of \$5,234,000 of which only \$153,520 will be from Federal sources. It requires about 50¢ for us to administer a Federal dollar."
49. "Those of us who form the leadership group here at _____ College believe that the federal regulations that have been imposed upon the college thus far have not been unreasonable or excessive in their intent. As an historically and predominantly black college that was founded in part to widen and improve employment opportunities for black people, the college fully supports the efforts of the Federal Government to achieve the same things through legislation and regulation. However, we fully agree with many of the member institutions of the SACS that the amount of record-keeping and reporting that is required under these laws and regulations has become rather excessive, and we fully support the efforts of the association to reduce some of these requirements. We also fully support the association's view that federal regula-

tion has now extended itself as far as it should go to achieve necessary reforms in higher education and should not be permitted to extend any further lest it seriously endanger the independence of our colleges and universities."

50. "...The Federal Government has literally invaded every facet of the operations of this institution--with regulations, requirements, rules, and guidelines. We are doing our best to comply fully with all these, sometimes ambiguous, frequently duplicatory, and oftentimes meaningless, requirements. This is not to say that we believe our institution does not have a responsibility to account for the Federal funds which it seeks and uses in its educational program. We are concerned, however, with the extent and the confused nature of some of the compliance procedures and regulations."
51. "In the main, information I have received from those persons responsible for areas identified specifically in your communication drew the conclusion that much of the ordinary on-going activities of their units are directed toward the same goals as the compliance regulations of the Federal Government. As a result, the conclusion is that the University does not believe that the Federal Government encroaches upon their normal operations or impinges unduly upon their time."
52. "The one incident that I would mention in which our institution was treated unjustly by OCR was in 1973, after an OCR visit to campus. That office sent us a written evaluation and we were given 30 days to respond to that evaluation - a deadline we met. (In particular, the evaluation was so ambiguous in many of its statements that there was no way to know what the evaluators were actually referring to, and thus it was not possible to make correction if, indeed, we were at fault.) But subsequently OCR released to both _____ (a local radio station) and _____ a copy of the original evaluation without any reference to the fact that the institution had responded to the evaluation and shown in many cases that it was incorrect. An example of the kind of thing that was said: OCR reported that 'we find no evidence that a position paper calling for the setting up of an ethnic studies department had been implemented.' By the time the OCR team visited our campus we had hired an Ethnic Studies Director who had status equal to a discipline head, and had initiated several courses in an ethnic studies minor. The OCR team had spent at least two days in the ethnic studies office visiting with both students and the director. That kind of misrepresentation of facts is blatantly unjust and terribly misleading when given to the public who, in turn, believe the report as true."
53. "In both cases I think that the most outrageous aspect of the intrusion was the assumption on the part of the bureaucrats that it is our responsibility to prove innocence. The tradition of our legal system holds that guilt has to be proved, not innocence."

IV. SUMMARY OF INSTITUTIONS REPORTING UNFAIR TREATMENT

The institutions reported sixty instances in which they experienced some type of unfair or arbitrary treatment by federal agencies or officials. The breakdown is as follows:

EEOC	14
DOL	10
HEW	10
VA	6
OCR	6
AFFIRMATIVE ACTION	6
IRS	3
DEPT. OF JUSTICE	2
OSHA	1
CETA	1
DEPT. OF INTERIOR	1

The reported instances vary greatly in their effect upon institutions. Some involve smaller amounts of money and time; others represent years of sustained efforts or loss of millions of dollars. In all fairness to the federal government and its many agencies and programs, far more institutions did not report any unfair or arbitrary treatment or stated positively that they had not received such treatment. This fact, however, does not excuse such treatment or mitigate its impact when it does occur. The instances are sufficiently frequent to suggest a need for an increased understanding on the part of federal agencies of the nature of a college or university and more careful policing of their own officials.

Institutions of higher education are particularly vulnerable to unfair treatment by federal officials. They realize that the judgment of these individuals may weigh heavily in decisions to limit, terminate, or suspend vital - and often massive - amounts of federal support. Such judgments may also result in revocation of tax exempt status. Additional avenues of recourse need to be developed - other than the expensive route via the courts - against arbitrary or unfair treatment by federal agencies or officials. It is particularly important that federal agencies and officials preserve the rights of institutions of higher education to the due process to which they are entitled under the Constitution.

V. CONCLUSIONS

1. The overwhelming conclusion that appears from this study is that institutions and the quality of their educational offerings to students are being affected adversely by the growing necessity for federal compliance in a large number of federally mandated social programs. In light of this situation it seems increasingly important that - prior to the enactment of legislation or regulations - the constituencies affected should be involved in formulating the legislation and the regulations. Such involvement will assist in clarifying and assessing the impact of such legislation or regulations. It also seems important that a cost-impact study be made of laws and regulations, and that only those which are absolutely necessary be enacted.
2. As a corollary to the above, it seems important that Congress should review such regulations before they go into effect in order to assure that the regulations do indeed carry out the intent and remain within the scope of the law itself. Such a review should be accompanied by the above study of the economic impact of such regulations.
3. A cost-impact study should be conducted of present legislation, (such as OSHA, remodeling facilities for energy efficiency, handicapped regulations, and ERISA).*
4. Consideration should be given to coordination of and consolidation of data gathering.
5. Consideration should be given to making one agency responsible for all of the activities in one area.
6. Additional mechanisms need to be devised to guarantee institutions of higher education fair treatment by agencies and federal officials.
7. More ways need to be found to reduce the growing burden of federal compliance upon all institutions of higher education.

* For instance, in his Summer '76 College Board Review article "Is Regulation Strangulation?" Charles B. Saunders, Jr., of ACE estimates that OSHA requirements will cost institutions over 3 billion dollars and that remodeling and replacement of, "outdated academic facilities to make them more energy-efficient is estimated at over \$8 billion."



SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS

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March 25, 1976

To: Chief Executive Officer of Member and Candidate Institutions
Southern Association of Colleges and Schools

For some years now, many of the organizations representing higher education have become increasingly sensitive to the threat of federal encroachment upon the operations of our member institutions. The Commission on Colleges has been actively opposing the ever increasing control of the federal government in the day-to-day affairs of your institution. We have resisted increased federal control of accrediting bodies, we have successfully opposed the Justice Department in its attempts to make our visiting committee reports public documents and we are now challenging proposed legislation which would continue, in significant ways, to extend federal control over higher education.

The Executive Council of the Commission on Colleges has asked that we contact you and begin to build a record from all our member institutions as to the degree of present Federal control of the operations of our members. We would like to know from you as soon as possible the extent to which the Federal Government has injected itself into the operations of your institution via compliance regulations in such areas as: Title VII, Title IX, OSHA-Health and Safety, Eligibility for Federal Funding for Institutional and Study Grant Programs, Department of Labor Regulations, Internal Revenue Service Regulations, Buckley Amendment Regulations, Termination of Employment, EEOC or OCR action, and instances of cancellation of the flow of federal funding by federal agencies without notice and/or hearing.

We would ask of you that you estimate your current annual total cost in time, money, and efforts of compliance with the above and all other Federal regulations or requirements. We want to be able to take to Congressional hearings, which we may find it necessary to attend, a documented story of the tremendous impact Federal bureaucracy is having upon education in the South. Also,



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if you care to do so, please describe any instances where you feel your institution has been unfairly or arbitrarily treated under any federal program or by any federal office. After we have put together such a document, we will be back in touch with you with a report on our findings and any recommendations for further action.

Sincerely yours,

Gordon W. Sweet
Executive Secretary
Commission on Colleges

GWS:klp